<div align="center">REMARKS</div>

This Amendment is in response to the Final Office Action mailed August 20, 2008. With this Amendment claims 1, 16 and 31 are amended and the remaining claims are unchanged. Reconsideration and withdrawal of the rejections are respectfully requested in view of the following remarks.

I.   **Claim Amendments**

In this Amendment claims 1, 16 and 31 are amended to change the language from "three layer graph" to "three plane model". This Amendment is presented for clarification purposes. Support for this Amendment can be found at least at paragraph 49 of the Specification. Claim 16 is also amended to include the feature that the three plane model includes "a right occluded plane, a left occluded plane, and a matched plane." Support for this amendment can also be found at least at paragraph 49 of the Specification. No new matter is presented. Entry is respectfully requested.

II.   **Rejections under §103**

In item 2 of the Office Action the Examiner rejected claims 1,2, 4, 5, 16, 17, 19, 20, 31, 32, 34 and 35 under 35 U.S.C. §103(a) as being unpatentable over Roy , U.S. Patent No. 6,046,763 (hereinafter "Roy"), in view of Buhrke et al, U.S. Patent No. 6,006,181, (hereinafter "Buhrke"). The Applicant has reviewed the cited references and must respectfully disagree.

In response to the Applicant's previous amendments, the Examiner added the Burke reference and asserted that "Buhrke discloses using a three-layer graph for dynamic programming (see figure 2 and column 3 lines 54-57)." The Applicant

<div align="right">
Type of Response: Amendment
Application Number: 10/681,007
Attorney Docket Number: 304561.01
Filing Date: 10/08/2003
</div>

respectfully submit that Buhrke is not applicable to the present claims for at least two reasons.

A. Inapplicable reference

First of all, the Applicant notes that Buhrke is directed to the area of speech recognition while Roy and the present claims are directed to the area of image processing. As such the Applicant respectfully submits that one of ordinary skill in the art of image processing would not consider a teaching in the speech recognition arts as relevant to image processing. Specifically, the "graphs" shown in Buhrke have nothing to do with images and the disclosures therein are not transferable to images. Further, the three layers shown in Buhrke relate to various portions of speech recognition and are independent from each other. Even with the combination of the references as cited in the Office Action, the Applicant is at a loss to understand what the combination would be, or if it would even be functional as an image processing system. Based on the Applicant's understanding of the references, the combination would somehow be an image processing system that used graphs from speech recognition. However, the Applicant cannot determine what modifications would be necessary to allow the system of Buhrke to function as an image processing system. The Office Action has not provided any description of how this could be done. Therefore, the Applicant submits that the Buhrke reference is so different from the Roy references in both function and purpose that one of ordinary skill in the image processing arts would not be able to transfer the teaching of Buhrke to Roy. Thus, the Applicant respectfully submits that as there is no rational reason to combine the references, the present claims are non-obvious over the combination or Roy and Buhrke.

B. Combination fails to disclose all elements

1. Claims 1 and 31

Even assuming *arguendo* that there is a rational reason to combine the Roy and Burke references, the Applicant respectfully submits that the cited combination fails to disclose all of the features of the claims in their entirety. Specifically, claim 1 as amended recites "... a three plane model for dynamic programming." The Examiner admitted in the Office Action that Roy does not disclose this feature, and asserted that Buhrke disclosed this feature. Buhrke discloses using three layers in a wave decoder for speech recognition. These three layers include a dynamic programming network layer, a phone network layer and a word network layer. Each of these layers provides a separate decoding function. However, these three layers are not a three plane model as recited in claim 1. Specifically, the planes in the present claims are geometric planes and not three sliced layers of a network architecture. Further, these layers of a network architecture cannot be converted in any way to the three plane model of the present claims. Therefore, the Applicant respectfully submits that the combination of Roy and Buhrke do not disclose the features of claim 1 in its entirety. Thus, claim 1 is believed allowable over the cited combination. Independent claim 31, as amended, includes similar features and is believed allowable over the cited combination for the same or similar reasons.

2. Claim 16

Referring now to independent claim 16, independent claim 16, as amended, includes features similar to the features of independent claim 1. For reasons similar to those discussed above claim 16 is believed allowable over the cited combination. Further, claim 16 as amended recites "the three plane model including a right occluded plane, a left occluded plane and a matched plane." This feature of claim 16 is not

disclosed by either the Roy or the Buhrke references. Therefore, the cited combination cannot disclose the features of claim 16, as amended, in its entirety. Reconsideration and withdrawal of the rejection are respectfully requested.

3. Dependent claims

In the Office Action dependent claims 2–15, 17–30 and 32–45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Roy in view of Buhrke in further view of Chupeau U.S. Patent No. 5,727,078, Usami, U.S. Patent No 4,982,438, Chen, U.S. Patent 6,556,704 or Anandan, U.S. Patent 6,198,852. In the interest of simplifying prosecution of the instant application, the Applicant's reply focuses on the independent claims. Applicant's decision not to address differences between the cited reference(s) and every claim limitation of the independent claims or every comment made by the Examiner in regards to the independent claims should not be considered as an admission that Applicant concurs with the Examiner's interpretations and assertions regarding the independent claims.

Also, the patentability of each dependent claim is not necessarily separately addressed in detail. However, Applicant's decision not to address the differences between the cited reference(s) and each dependent claim should not be considered as an admission that Applicant concurs with the Examiner's assertions regarding the patentability of the dependent claims over the cited reference(s).

Therefore, the Applicant submits that dependent claims 2–15, 17–30 and 32–45 are allowable at least based on their dependency from allowable independent claims. Reconsideration and withdrawal of the corresponding rejections are respectfully requested.

III. CONCLUSION

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and allowance of the pending claims are respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,

Microsoft Corporation

Date: October 20, 2008   By: /Nathan M. Rau/

Nathan M. Rau Reg. No.: 45,466
Attorney for Applicants
Direct telephone (425) 706-6882
Microsoft Corporation
One Microsoft Way
Redmond WA 98052-6399

Type of Response: Amendment
Application Number: 10/681,007
Attorney Docket Number: 304561.01
Filing Date: 10/08/2003